IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN,
GREEN BAY DIVISION

GREAT LAKES MANUFACTURING, INC.,	)	
	)	CIVIL ACTION NO. _______
Plaintiff,	)	
	)	JURY TRIAL REQUESTED
v.	)	
	)	
LONDERVILLE STEEL ENTERPRISES, INC.,	)	
	)	
Defendant.	)	

COMPLAINT

Plaintiff, for its Complaint, alleges as follows:

THE PARTIES

1. Plaintiff, Great Lakes Manufacturing, Inc. ("GLM"), is a Wisconsin corporation having a place of business at 8450 County Road R, Suring, Wisconsin 54174.

2. On information and belief, defendant, Londerville Steel Enterprises, Inc. ("Londerville"), is a Wisconsin corporation having a place of business at 12402 Woodland Drive, Wausau, Wisconsin 54401.

JURISDICTION AND VENUE

3. This is a civil action for patent infringement arising under the patent laws of the United States, United States Code, Title 35 including, without limitation, Sections 271, 281, 283, 284 and 285, and subject matter jurisdiction of this court is conferred by United States Code, Title 28, Section 1338(a).

4. This Court has personal jurisdiction over Defendant, Londerville, because Defendant is a Wisconsin corporation and because Defendant conducts continuous and systematic business within Wisconsin and within this district from its headquarters in Wausau, Wisconsin, and has placed infringing products into the stream of commerce by selling and/or offering to sell products in this judicial district with knowledge that such products would be shipped from and/or to this district, and continues to conduct this infringing activity.

5. Upon information and belief, Defendant, Londerville, has been and is doing business in Wisconsin (including in the Eastern District) and operates within Wisconsin (including in the Eastern District) with a fair measure of permanence and continuity; has purposefully availed itself of the privilege of conducting activities within Wisconsin (including the Eastern District); has established minimum contacts with Wisconsin (including the Eastern District), such that it should reasonably and fairly anticipate being hailed into Court in Wisconsin and in the Eastern District of Wisconsin; has purposefully directed its activities at residents of Wisconsin; and at least a portion of the patent infringement claim alleged herein arises out of or is related to one or more of the foregoing activities.

6. Venue is proper in this district under 28 U.S.C. §1400(b) because Defendant, Londerville, is a Wisconsin corporation and therefore resides in Wisconsin.

STATEMENT OF FACTS

7. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-6 as though fully set forth herein.

8. GLM is the assignee and lawful owner of United States Patent Nos. 6,209,942, entitled "Extruded bunk stakes, bunks and bunk pockets for logging trucks and trailers" ("the

’942 patent), and 6,468,008, entitled “Apparatus for constraining the position of logs on a truck or trailer” (“the ’008 patent”).

9. The ’942 patent and the ’008 patent have been duly examined and issued by the United States Patent and Trademark Office (“USPTO”).

10. The sole named inventor and assignor of the ’942 patent and the ’008 patent is Craig French.

11. A true and correct copy of the ’942 patent is attached as Exhibit A and made a part hereof.

12. A true and correct copy of the ’008 patent is attached as Exhibit B and made a part hereof.

13. As the owner of the ’942 and ’008 patents by assignment, GLM is authorized and has standing to bring legal action to enforce all rights arising under the ’942 and ’008 patents.

14. The ’942 patent claims include an apparatus for constraining a load generally comprising a bunk; a bunk pocket supported by the bunk; and a stake vertically positionable in the bunk pocket, with the stake having an extruded hardened aluminum main body and a centrally located supporting web integrally formed therein traversing the depth of said stake, the web being positioned perpendicular to a load it will constrain and extending the complete length of the interior of said stake, the stake including internally and externally radiused corners which add to the structural integrity of said stake, the radiused corners of the stake, on the outside corners, internally and externally, and internally adjacent to the centrally located web, transfer the pressure of the load constrained by said stakes to all the perpendicular members of said stake, walls and web.

15. The ’008 patent claims include an apparatus for constraining a load generally comprising a bunk; a bunk pocket supported by the bunk; and a stake vertically positionable in the bunk pocket, with the bunk pocket comprising a plurality of side walls surrounding the stake, with the stake comprising a main body having a centrally located supported web integrally formed therein traversing a depth of said stake, the web being positioned perpendicular to a load that said stake will constrain.

16. Defendant, Londerville, has had actual and express notice of the ’942 and ’008 patents since at least February 6, 2017.

17. The actual and express notice of the ’942 and ’008 patents provided to Defendants by Plaintiff on February 6, 2017 provided Defendant with knowledge of ’942 and ’008 patents, the scope of the ’942 and ’008 patent claims, and provided notice to Londerville of its infringement. A copy of the February 6, 2017 letter is annexed hereto as Exhibit C.

18. Upon information and belief, based upon Defendant’s copying of the GLM product, Defendant has known of the patent since at least December 2016.

19. At no time has the Defendant had a license to the ’942 and/or ’008 patents.

20. Defendant, Londerville, manufactures, sells and offers for sale products designated as “Londerville Aluminum Log Stakes” and “Seemless Stake Pocket(s)” as shown on the invoice of Exhibit D and below:

715-675-4800

21. The Londerville "Seemless Stake Pocket(s)" are bunk pockets having a plurality of side walls surrounding a stake and are specifically designed and marketed to be attached to and supported by a trailer bunk that extends across the width of a trailer frame and are supported by the trailer bunk or frame. This use is shown here:

Western
Wisconsin
Fabricating

22. The "Londerville Aluminum Log Stakes" are specifically designed and marketed to be vertically positionable in the Londerville "Seemless Stake Pocket(s)" and have an extruded, hardened aluminum main body having a centrally located supporting web integrally formed therein traversing the depth of the stake:

STEEL DIVISION
OF NEW AND SURPLUS
STEEL
ALUMINUM and
STAINLESS PRODUCTS
TUBING
CONCRETE
WITH OVER 25 YEARS
OF EXPERIENCE
MESH

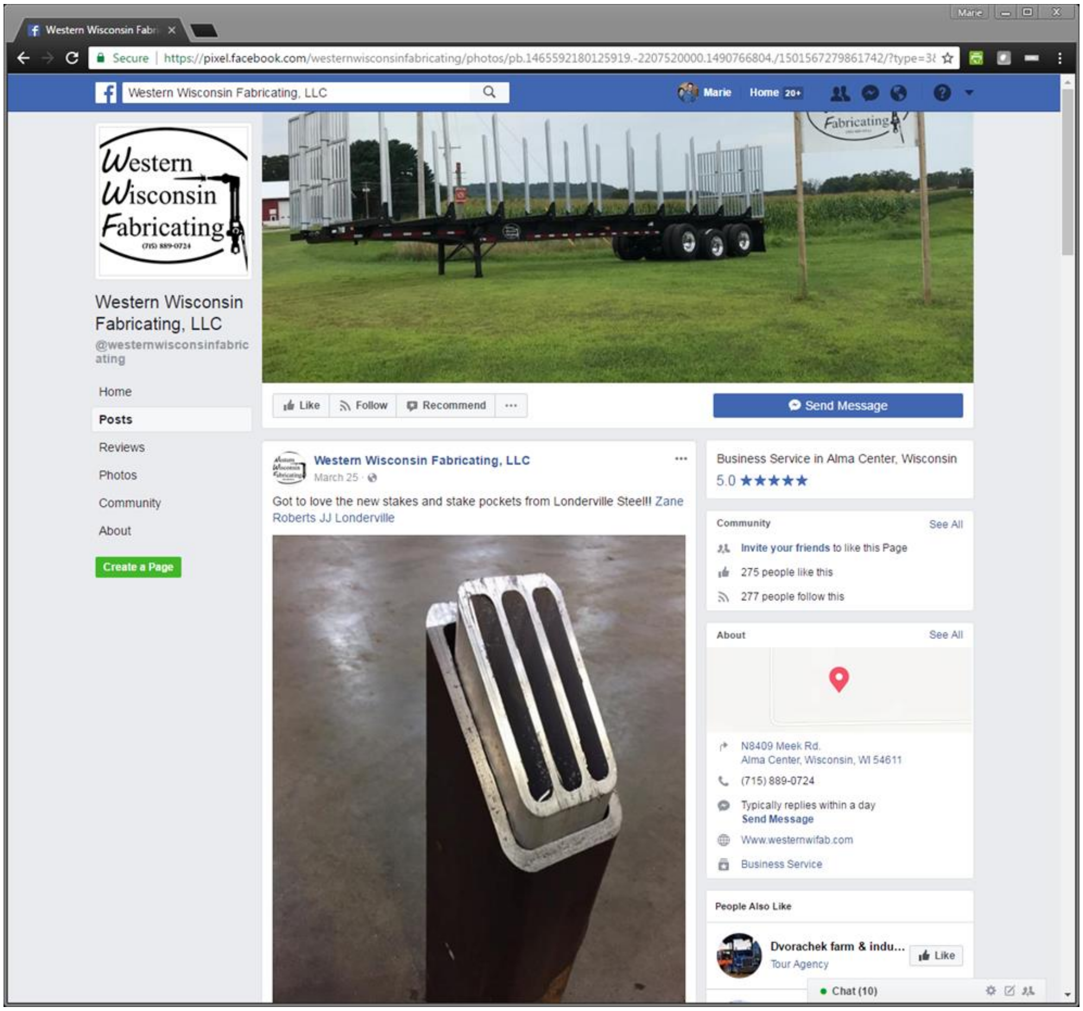
23. As shown in the images above, the "Londerville Aluminum Log Stakes" include internally and externally radiused corners which add to the structural integrity of said stake, and the radiused corners of the stake, located on the outside corners, internally and externally, and internally adjacent to the centrally located web, operate to transfer the pressure of a load constrained by said stakes to all the perpendicular members of said stake, walls and web.

24. Upon information and belief, Defendant Londerville, and/or third parties, including at least Western Wisconsin Fabricating, LLC, attach Londerville "Seemless Stake Pocket(s)" to bunks on a trailer such that the Londerville "Seemless Stake Pocket(s)" are supported by the bunks.

25. Upon information and belief, Defendant Londerville, and/or third parties, including at least Western Wisconsin Fabricating, LLC, vertically position "Londerville Aluminum Log Stakes" in Londerville "Seemless Stake Pocket(s)" attached to bunks such that the web is positioned perpendicular to a load it will constrain so that the pressure of the load constrained by the stakes is transferred to all the perpendicular members of said stake, walls and web.

26. Upon information and belief, Defendant, Londerville, utilizes the "Londerville Aluminum Log Stakes" and "Seemless Stake Pocket(s)" on trailer bunks in a manner infringing at least one claim of the '942 and '008 patents in the state of Wisconsin and elsewhere.

27. Upon information and belief, Defendant, Londerville sells or distributes the "Londerville Aluminum Log Stakes" and "Seemless Stake Pocket(s)" to others who utilize the "Londerville Aluminum Log Stakes" and "Seemless Stake Pocket(s)" on trailer bunks in a manner infringing at least one claim of the '942 and '008 patents in the state of Wisconsin and elsewhere, for example as demonstrated below:



Western Wisconsin Fabricating, LLC
Western Wisconsin Fabricating
(715) 889-0724
Western Wisconsin Fabricating, LLC
@westernwisconsinfabricating
Home
Posts
Reviews
Photos
Community
About
Create a Page
Like
Follow
Recommend
Send Message
Western Wisconsin Fabricating, LLC
March 25
Got to love the new stakes and stake pockets from Londerville Steel!! Zane Roberts JJ Londerville
Business Service in Alma Center, Wisconsin
5.0
Community
See All
Invite your friends to like this Page
275 people like this
277 people follow this
About
See All
N8409 Meek Rd.
Alma Center, Wisconsin, WI 54611
(715) 889-0724
Typically replies within a day
Send Message
Www.westernwifab.com
Business Service
People Also Like
Dvorachek farm & indu...
Tour Agency
Like
Chat (10)

28. Upon information and belief, and subsequent to Plaintiff's actual and express notice of February 6, 2017, Defendant, Londerville, has induced others to utilize the "Londerville Aluminum Log Stakes" and "Seemless Stake Pocket(s)" on trailer bunks in a manner infringing at least one claim of the '942 and '008 patents in the state of Wisconsin and elsewhere through Londerville's marketing, promotion, advertising, sales, instruction, and communications directed toward potential customers, customers, and product end-users.

29. Upon information and belief, Defendant, Londerville, specifically intended at least one third party—Western Wisconsin Fabricating, LLC—to infringe at least one claim of the

’942 and ’008 patents in the state of Wisconsin and elsewhere and knew that at least one third party’s acts constituted infringement of at least one claim of the ’942 and ’008 patents.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,209,942

30. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-29 as though fully set forth herein.

31. Defendant has infringed, and is currently infringing, at least claims 1 and 2 of the ’942 patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering to sell in the United States, and/or importing into the United States, without license or authority, apparatus for constraining a load, including without limitation the “Londerville Aluminum Log Stakes” and “Seemless Stake Pocket(s)”.

32. Defendant has actively induced infringement, and is currently actively inducing infringement, of at least claims 1 and 2 of the of the ’942 patent in violation of 35 U.S.C. § 271(b) by making, using, selling, offering to sell in the United States, and/or importing into the United States, without license or authority, apparatus for constraining a load, including without limitation the “Londerville Aluminum Log Stakes” and “Seemless Stake Pocket(s)” and inducing others to utilize the “Londerville Aluminum Log Stakes” and “Seemless Stake Pocket(s)” on trailer bunks in a manner infringing at least claims 1 and 2 of the of the ’942 patent through Londerville’s marketing, promotion, advertising, sales, instruction, and communications directed toward potential customers, customers, and product end-users.

33. Defendant has contributed to infringement, and is currently contributing to infringement, of at least claims 1 and 2 of the of the ’942 patent in violation of 35 U.S.C. § 271(c) by selling and/or offering to sell and/or importing into the United States, without license

or authority, apparatus for constraining a load, including without limitation the "Londerville Aluminum Log Stakes" and "Seemless Stake Pocket(s)."

34. On information and belief, Defendant has infringed, and is currently infringing, at least claims 1 and 2 of the '942 patent in violation of 35 U.S.C. § 271(f) by supplying or causing to be supplied in or from the United States all or a substantial portion of the components of at least claims 1 and 2 of the '942 patent, including without limitation the "Londerville Aluminum Log Stakes" and "Seemless Stake Pocket(s)," where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside of the United States in a manner that would infringe one of more of the asserted claims if such combination occurred within the United States, and/or by supplying or causing to be supplied in or from the United States any component of the invention of one or more of the asserted claims, that is especially made or especially adapted for use in the invention and not a staple article or commodity of commerce suitable for substantial noninfringing use, where such component is uncombined in whole or in part, knowing that such component is so made or adapted and intending that such component will be combined outside of the United States in a manner that would infringe the patent if such combination occurred within the United States.

35. The "Londerville Aluminum Log Stakes" and "Seemless Stake Pocket(s)" constitute a material part of at least claims 1 and 2 of the '942 patent, are especially made or especially adapted for use in an infringement of at least claims 1 and 2 of the '942 patent, and are not staple articles or commodities of commerce suitable for substantial noninfringing use.

36. Defendant was aware of the '942 patent when it marketed and sold "Londerville Aluminum Log Stakes" and "Seemless Stake Pocket(s)" products.

37. On information and belief, Defendant specifically intended to induce infringement of the ’942 patent and knew it had induced acts that constitute infringement of the ’942 patent.

38. Defendant disregarded an objectively high likelihood that the making, using, selling and/or offering to sell the Londerville Aluminum Log Stakes” and “Seemless Stake Pocket(s)” products would infringe one or more claims of the ’942 patent.

39. Defendant engaged in the foregoing conduct with respect to the ’942 patent during the term of the patent and without authority from Plaintiff.

40. Defendant’s infringement of one or more claims of the ’942 patent has been and will continue to be willful, deliberate and intentional.

41. As a direct and proximate result of Defendant’s infringement of one or more claims of the ’942 patent, Plaintiff has been and will continue to be irreparably damaged and deprived of its rights in the ’942 patent in amounts not yet determined, and for which Plaintiff is entitled to relief.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 6,468,008

42. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-41 as though fully set forth herein.

43. Defendant has infringed, and is currently infringing, at least claims 6 and 7 of the ’008 patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering to sell in the United States, and/or importing into the United States, without license or authority, apparatus for constraining a load, including without limitation the “Londerville Aluminum Log Stakes” and “Seemless Stake Pocket(s)”.

44. Defendant has actively induced infringement, and is currently actively inducing infringement, of least claims 6 and 7 of the ’008 patent in violation of 35 U.S.C. § 271(b) by

making, using, selling, offering to sell in the United States, and/or importing into the United States, without license or authority, apparatus for constraining a load, including without limitation the “Londerville Aluminum Log Stakes” and “Seemless Stake Pocket(s)” and inducing others to utilize the “Londerville Aluminum Log Stakes” and “Seemless Stake Pocket(s)” on trailer bunks in a manner infringing at least claims 6 and 7 of the of the ’008 patent through Londerville’s marketing, promotion, advertising, sales, instruction, and communications directed toward potential customers, customers, and product end-users.

45. Defendant has contributed to infringement, and is currently contributing to infringement, of at least claims 6 and 7 of the ’008 patent in violation of 35 U.S.C. § 271(c) by selling and/or offering to sell and/or importing into the United States, without license or authority, apparatus for constraining a load, including without limitation the “Londerville Aluminum Log Stakes” and “Seemless Stake Pocket(s).”

46. On information and belief, Defendant has infringed, and is currently infringing, at least claims 6 and 7 of the ’008 patent in violation of 35 U.S.C. § 271(f) by supplying or causing to be supplied in or from the United States all or a substantial portion of the components of at least claims 6 and 7 of the ’008 patent, including without limitation the “Londerville Aluminum Log Stakes” and “Seemless Stake Pocket(s),” where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside of the United States in a manner that would infringe one of more of the asserted claims if such combination occurred within the United States, and/or by supplying or causing to be supplied in or from the United States any component of the invention of one or more of the asserted claims, that is especially made or especially adapted for use in the invention and not a staple article or commodity of commerce suitable for substantial noninfringing use, where such component is

uncombined in whole or in part, knowing that such component is so made or adapted and intending that such component will be combined outside of the United States in a manner that would infringe the patent if such combination occurred within the United States.

47. The "Londerville Aluminum Log Stakes" and "Seemless Stake Pocket(s)" constitute a material part of at least claims 6 and 7 of the '008 patent, are especially made or especially adapted for use in an infringement of at least claims 6 and 7 of the '008 patent, and are not staple articles or commodities of commerce suitable for substantial noninfringing use.

48. Defendant was aware of the '008 patent when it marketed and sold "Londerville Aluminum Log Stakes" and "Seemless Stake Pocket(s)" products.

49. On information and belief, Defendant specifically intended to induce infringement of the '008 patent and knew it had induced acts that constitute infringement of the '008 patent.

50. Defendant disregarded an objectively high likelihood that the making, using, selling and/or offering to sell the Londerville Aluminum Log Stakes" and "Seemless Stake Pocket(s)" products would infringe one or more claims of the '008 patent.

51. Defendant engaged in the foregoing conduct with respect to the '008 patent during the term of the patent and without authority from Plaintiff.

52. Defendant's infringement of one or more claims of the '008 patent has been and will continue to be willful, deliberate and intentional.

53. As a direct and proximate result of Defendant's infringement of one or more claims of the '008 patent, Plaintiff has been and will continue to be irreparably damaged and deprived of its rights in the '008 patent in amounts not yet determined, and for which Plaintiff is entitled to relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment that:

A. Defendant has infringed the ’942 patent;

B. Defendant’s infringement of the ’942 patent is willful;

C. Defendant, its officers, directors, employees, agents, subsidiaries, licensees, servants, successors and assigns, and any and all persons acting in privity or in concert or participation with Defendant, be permanently enjoined from infringement of the ’942 patent under 35 U.S.C. § 283;

D. Defendant has infringed the ’008 patent;

E. Defendant’s infringement of the ’008 patent is willful;

F. Defendant, its officers, directors, employees, agents, subsidiaries, licensees, servants, successors and assigns, and any and all persons acting in privity or in concert or participation with Defendant, be permanently enjoined from infringement of the ’008 Patent under 35 U.S.C. § 283;

G. Plaintiff be awarded all damages adequate to compensate Plaintiff for Defendant’s infringement of the ’942 patent and/or the ’008 patent, and such damages be trebled under 35 U.S.C. § 284 and awarded to Plaintiff, with pre-judgment and post-judgment interest as allowed by law;

H. This case be adjudged an exceptional case under 35 U.S.C. § 285, and Plaintiff be awarded attorneys’ fees, expert witness fees, costs, and all expenses incurred in this action, with interest;

I. Plaintiff be awarded all actual and compensatory damages; and

J. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable by jury.

Respectfully submitted,

Date: October 17, 2017

s/Aaron T. Olejniczak

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